

RULES OF PRACTICE AND PROCEDURE IN THE
SEPARATE JUVENILE COURTS OF
SARPY COUNTY, NEBRASKA EFFECTIVE JANUARY 1, 1995 ADOPTED
MARCH 31, 1995

The following rules of practice and procedure have been adopted by the Sarpy County Separate Juvenile Court Judges and are effective January 1, 1995. They supersede all former rules of practice and procedure promulgated by this Court.

Adopted March 31, 1995.

RULE I

POTENTIAL RULE CONFLICTS

These rules shall govern the procedure of this Court so far as they are applicable and are not inconsistent with any statute of the State of Nebraska or any rule or order of the Supreme Court of Nebraska having the force of law.

Adopted March 31, 1995.

RULE II

COURT SCHEDULING

A. Insofar as feasible, the Court will hear matters in the order of filing at approximately the following days and times:

Monday & Tuesday: Arraignments, Dispositions, Motions, Uncontested Adjudications, Pretrial Conferences

Wednesday: Disposition Hearings, Motions

Thursday: Disposition Hearings, Motions, Drug Treatment Court Staffings (2:30 p.m.), Drug Treatment Court Hearings (3:30 p.m.)

Friday: Contested Adjudications, Motions

B. Detention Hearings will be heard at 8:45 a.m. Monday through Friday with exceptions only approved by the Court. In order to provide adequate time, counsel or parties wishing to contest a detention hearing shall promptly notify the Bailiff or the Court. All parties and attorneys present at a pretrial conference shall prepare for the Court an order detailing any Agreements. Said order may be prepared on the form provided by the Court for said hearing.

C. Upon detaining a minor who already has court-appointed counsel on the same docket and page, the juvenile probation office shall notify said minor's counsel of any detention hearing set within 24 judicial hours of said detention. Notice may include sending a copy of said detention authorization by way of a facsimile transmission to counsel of record. Counsel of record shall be present at the detention hearing unless the appearance of counsel is waived by the Court. In circumstances where counsel is unavailable, the Court may proceed with the detention hearing and provide counsel with an opportunity for a detention review hearing.

Adopted March 31, 1995.

RULE III

DEPOSITIONS

Once a case has been set for a contested hearing, the case will not be continued for the taking of depositions or other discovery except for good cause as determined by the court. Discovery shall not be filed with the Clerk of the District Court, Separate Juvenile Court Division, but certificates of serving or responding to discovery shall be filed with the Clerk.

Adopted March 31, 1995.

RULE IV

MOTIONS AND PLEADINGS

A. All pretrial and posttrial motions or similar filings in which a hearing is requested shall be in writing and filed with the Clerk at least five (5) judicial days prior to the hearing except by permission of the Court.

B. Counsel at the time of making said filing shall obtain a date for a hearing thereon from the Judge or the Bailiff.

C. The Clerk shall not accept said filing unless it is accompanied by notice of the time of the hearing.

D. Notice of said hearing shall be mailed or personally delivered to counsel, or unrepresented parties, three (3) full judicial days prior to said hearing. The use of the United States Postal Service shall constitute sufficient compliance.

E. A Motion to Continue can be filed disclosing that all other parties and counsel agree to the continuance in which case the Court can grant the motion without a hearing.

F. A Motion to Continue without agreement of opposing counsel and parties shall be set as previously outlined herein.

G. Upon the Court granting the Motion for Continuance, counsel seeking the continuance shall obtain a proposed date from the Bailiff and verify the new date with other counsel and unrepresented parties. If the new date is not agreeable, then it is the responsibility of the movant to obtain a new date that is agreeable to all counsel and unrepresented parties.

H. Motions for a placement change can be approved by the Court without further hearing after three (3) days from filing unless an objection is filed with the Clerk and notice is given to the Bailiff, whereupon the matter shall be set for hearing by the Court. The Nebraska Department of Social Services shall in writing notify the court, guardians ad litem, and counsel for minor children within 24 judicial hours of any change in placement.

I. A written denial may be filed by counsel for the minor on those petitions alleging a law violation or status offense. A written denial may be filed by counsel for the parent, guardian, or custodian on § 43-247(3)(a) cases. The denial shall include counsel's estimate as to the amount of time necessary for trial.

J. Motions for Detention, Endorsed Summons, and such other Ex Parte Orders may be set and heard by the Court within 24 hours of the detention occurrence, excluding nonjudicial days.

K. All motions sought to be entered without a hearing shall be accompanied by a proposed order for the Judge's signature.

L. All § 43-247(3)(a) and (b) petitions filed must allege specific allegations with the exception of a "deports" allegation when filed in conjunction with a law violation. A Plea of admission or no contest (on abuse/neglect/dependency allegations) to general allegation petitions will not be accepted by the Court.

Adopted March 31, 1995.

RULE V

FORMAT AND SERVICE

A. All pleadings, motions, and proposed orders shall be printed or typewritten on 8½- by 11-inch paper. All pleadings shall contain the name, address, bar number, and telephone numbers of counsel preparing same.

B. Subsequent to the filing of a petition, any party making a filing shall serve the same upon all counsel of record or parties of record, if not represented by counsel. Service by the United States Postal Service shall be deemed sufficient. Any pleading or document filed subsequent to the petition shall contain a certificate that service was made upon counsel or parties pursuant to this rule.

Adopted March 31, 1995.

RULE VI

COURTROOM PROCEDURES

All parties and their counsel shall be present in the courtroom and prepared to proceed at the hour set for hearing by the Court. Counsel shall examine witnesses and address the Court from the counsel's table and shall not approach the bench or witness stand while the Court is in session without first obtaining permission of the Court. Witnesses and parties shall be referred to and addressed by their surnames unless the age or other circumstances makes it appropriate to use the first name. Only one counsel for each party shall examine a witness or make objections during the testimony of such witness. In the discretion of the security officers, upon order of the Court, any person may be subjected to a search of his or her person for possession of any weapons, destructive device, or components thereof.

Adopted March 31, 1995.

RULE VII

FILES AND EXHIBITS

A. No person except the Judge or the Clerk shall take from the courthouse or out of the office or possession of the Clerk, any records, papers, or legal files of the Court pertaining to the causes therein, except by permission of the Clerk upon such conditions as the Clerk may impose. Any legal file so removed shall be returned to the Clerk within two (2) days, unless sooner requested by the Clerk, and at least 48 hours prior to the commencement of any trial or hearing in connection with said case.

B. Copies of all exhibits received into evidence shall be placed in the social file corresponding to the respective case involving the child or children. Only those counsel appointed or appearing on behalf of the parties may have access to said social file. All others, except for the Juvenile Probation Office (District 5), the Nebraska Department of Social Services, the Sarpy County Attorney, and the Nebraska Foster Care Review Board shall not have access to the social file or exhibits without permission of the Court. Those exhibits in the custody of the court reporter may be open for inspection by counsel appointed or appearing on behalf of the parties upon a reasonable request of the court reporter. All others may not have access to said exhibits without permission of the Court. All Court hearings are open to the public as provided by law; however, the Court may close the hearing, or a portion thereof, pursuant to law and Nebraska Supreme Court rules.

C. Pursuant to L.B. 719 (1993), the Court hereby authorizes the release of information for the exclusive use of Investigation Teams and Treatment Teams initiated by the Sarpy County Attorney pursuant to L.B. 1184 (1992) and Task Forces under the auspices of the Sarpy County S.A.F.E. Policy. Any other use of confidential information shall be strictly prohibited unless written authorization is granted by the Court.

Adopted March 31, 1995.

RULE VIII

CHILD SUPPORT

In any case where child support is an issue, counsel are to comply with the [Nebraska Child Support Guidelines](#). Counsel are to complete the child support calculation worksheet pursuant to the Nebraska Child Support Guidelines and furnish the calculation to the Court and all other parties at least three (3) days before any hearing on a request for child support. The Court may refer any support or reimbursement issue to mediation upon approval of counsel or the parties.

Adopted March 31, 1995.

RULE IX

COURT REPORTS

A. Case plans, Court reports, and other similar documents shall be delivered to the Court at least two (2) judicial days prior to the hearing. The parties may motion the Court for an order requiring the Nebraska Department of Social Services to deliver copies of said reports to counsel of record at least two (2) judicial days prior to the hearing.

B. Guardian Ad Litem reports shall be delivered to all counsel, parties, and the Court at least one (1) judicial day prior to the hearing.

C. Time allocation for further reviews or further disposition hearings shall be fifteen (15) minutes and counsel, upon determining more time may be necessary, shall notify the Bailiff as soon as possible so that additional time may be arranged.

D. Where an interpreter will be necessary, counsel shall inform the Bailiff so arrangements can be made to obtain the appropriate interpreter.

E. Counsel representing incarcerated parents shall request a transportation order sufficiently in advance from the Bailiff, if the party wants to be present. When notice has been sent to an incarcerated parent, unless a request is made, the Court will not enter a transportation order.

Adopted March 31, 1995.

RULE X

SEALINGS, APPOINTMENT OF GUARDIAN AD LITEM, AND APPEARANCES

A. Minors previously under the jurisdiction of the Court, as law violators and status offenders, may motion the Court for an order sealing their records and setting aside the adjudication pursuant to the Nebraska Juvenile Code. If the Court overrules said request, the minor may not motion the Court for such relief for a period of five (5) years from the date of the order overruling said request (unless waived by the Court).

B. Pursuant to § 43-272.01 the Bailiff or Clerk shall designate a guardian ad litem on § 43-247(3)(a) cases where the child(ren) are removed from their residence prior to a Court hearing.

C. All parties to the proceedings shall dress appropriately for Court hearings. The Court may continue or delay a hearing if any party's appearance is inappropriate.

Adopted March 31, 1995.

RULE XI

ABUSE, NEGLECT, DEPENDENCY, AND PROBABLE CAUSE FINDINGS

Within 48 hours of a § 43-247(3)(a) detention, no minor shall remain detained without a probable cause finding issued by the Court providing for continued detention of said minor.

Adopted March 4, 1997.